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24 UNITED STATES DISTRICT COURT

25 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

26 ACER, INC., ACER AMERICA
 27 CORPORATION AND GATEWAY, INC.,
 Plaintiffs,

28 v.
 TECHNOLOGY PROPERTIES LIMITED,
 PATRIOT SCIENTIFIC CORPORATION,
 and ALLIACENSE LIMITED,

Defendants.

Case No. 5:08-cv-00877 JF

**DEFENDANTS' SUPPLEMENT TO THE
 SUPPLEMENTAL JOINT CASE
 MANAGEMENT CONFERENCE
 STATEMENT**

Date: September 18, 2009
 Time: 10:30 a.m.
 Dept: Courtroom 3, 5th Floor
 Before: Honorable Jeremy Fogel

29 BARCO, N.V.,
 Plaintiff,
 v.

30 TECHNOLOGY PROPERTIES LIMITED,
 PATRIOT SCIENTIFIC CORPORATION,
 and ALLIACENSE LIMITED,
 Defendants.

Case No. 5:08-CV-05398 JF (related case)

1 Defendants Technology Properties Limited (“TPL”), Patriot Scientific Corporation, and
 2 Alliacense Limited (collectively, “Defendants”) hereby submit the following Supplement to the
 3 Supplemental Joint Case Management Conference Statement filed on September 8 to notify the
 4 Court that the U.S. Patent Office has issued a Notice of Intent to Reissue an *Ex Parte*
 5 Reexamination Certificate (“NIRC”) for U.S. Patent 5,809,336 (“the ’336 Patent-in-Suit”). A
 6 copy of the NIRC has been attached as Exhibit A for the Court’s reference.

7 As described in the September 8 Joint Case Management Conference Statement
 8 (“Statement”), five *ex parte* requests for reexamination have been filed on the ’336 Patent-in-
 9 Suit. Three of those pending reexaminations were administratively merged on April 11, 2008
 10 (Reexams # 90/008,237, 90/008,306, and 90/008,474) while the fourth¹ and fifth requests were
 11 recently denied. *See* Docket Nos. 147 (case no. 5:08-cv-0877) and No. 60 (case no. 5:08-cv-
 12 05398). On September 11, 2009, the Patent Office issued the NIRC on the ’336 Patent-in-Suit in
 13 the merged proceedings, stating that “prosecution on the merits is (or remains) closed in this *ex*
 14 *parte* reexamination proceeding ... A Certificate will be issued in view of ... (e) Other:
 15 Examiner’s Amendment of 8/6/09.” Exh. A at 3. The examiner also recited the reasons for
 16 patentability and set forth that asserted claims 1, 6, and 10 will re-issue. *Id.* There has been no
 17 change in the status of the fourth and fifth requests since the September 8 Joint Case Management
 18 Statement.

19 Defendants believe that the re-issuance of the ’336 Patent-in-Suit may expedite the
 20 eventual resolution of this dispute and potentially impact settlement positions. Thus, as described
 21 in the Defendants’ portion of the September 8 Statement, Defendants request that the Court enter
 22 no more than a brief 45-day extension in the current stay to allow the ’336 Patent-in-Suit to re-
 23 issue. Thereafter, this case should resume as quickly as possible for the reasons set forth in the
 24 Defendants’ portion of the September 8 Statement.

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¹ On August 25, 2009, the requestor re-filed a corrected reexamination request that is currently pending.

1 Dated: September 15, 2009

FARELLA BRAUN & MARTEL LLP

3 By: /s/ John Cooper
4 John L. Cooper

5 Attorneys for Defendants
6 TECHNOLOGY PROPERTIES LIMITED
7 and ALLIACENSE LIMITED

8 I represent that concurrence in the filing of this
9 document has been obtained from each of the
10 other signatories which shall serve in lieu of
11 their signatures on this document.

12 KIRBY NOONAN LANCE & HOGE, LLP

13 By: /s/ Charles Hoge
14 Charles T. Hoge

15 Attorneys for Defendant
16 PATRIOT SCIENTIFIC CORPORATION